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January 20, 2004

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Iridium Satellite LLC
Request for Confidential Treatment
IB Docket No. 02-54

Dear Ms. Dortch:

Pursuant to Section 552(b)(4) of the U.S. Code, and Sections 0.457 and 0.459 of the Rules of the Federal Communications Commission ("FCC" or "Commission"),¹ Iridium Satellite LLC ("Iridium"), by its attorneys, respectfully requests that the Commission withhold from public inspection and afford confidential treatment to portions of Attachments 1 and 2 to the Written Ex Parte Presentation of Iridium Satellite LLC dated January 20, 2004 in IB Docket No. 02-54 (the "Confidential Attachments"). Iridium has provided un-redacted, confidential versions of these two Confidential Attachments by email to Sheryl Wilkerson, Legal Advisor for Chairman Powell and Roderick Porter of the International Bureau. Redacted versions of the Confidential Attachments have been filed electronically through the Commission's electronic comment filing system ("ECFS") for inclusion in the Commission's public files for the above-referenced proceeding.

Iridium requests confidential treatment of the Confidential Attachments because they contain precisely the type of sensitive, proprietary commercial, financial and technical information that, if disclosed, could be of value to Iridium's competitors and detrimental to Iridium and its interests. The Confidential Attachments contain specific information regarding the life expectancy and technical operation of Iridium's operational satellite system in the 1.6/2.4 GHz ("Big LEO") bands and financial information pertaining to Iridium's de-orbiting obligation, including specific dollar amounts. Iridium would be placed at a significant disadvantage if

¹ 5 U.S.C. § 552(b)(4); 47 C.F.R. § 0.457(d); 47 C.F.R. § 0.459.

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this detailed financial and technical information were revealed to competitors that stand to benefit competitively from any such knowledge. Indeed, the Commission has specifically recognized this type of information as warranting confidential treatment.² Moreover, this information falls squarely within the fourth exemption ("Exemption 4") to the provisions of the Freedom of Information Act ("FOIA").³

Exemption 4 allows parties to withhold from the public "trade secrets and commercial or financial information obtained from any person and privileged or confidential."⁴ Applying Exemption 4, the courts have stated that commercial or financial information is confidential if its disclosure will have either of the following effects: (1) impairs the government's ability to obtain necessary information in the future; or (2) causes substantial harm to the competitive position of the person from whom the information was obtained.⁵

Section 0.457(d)(2) of the Commission's rules allows persons submitting materials to file a request for non-disclosure, according to Section 552(b)(4) of the FOIA, to ensure the material is withheld from public inspection.⁶ The requirements governing such requests are set forth in Section 0.459(b). In accordance with the specifications delineated in that rule, Iridium hereby submits the following:

1. Identification of Specific Information for Which Confidential Treatment is Sought (Section 0.459(b)(1)). As mentioned above, the specific information for which confidential treatment is sought is being submitted via email to Sheryl

² See Amendment of the Commission's Space Station Licensing Rules and Policies; Mitigation of Orbital Debris, *First R&O and FNPRM*, at ¶187 (released May 19, 2003).

³ 5 U.S.C. § 552(b)(4).

⁴ *Id.*

⁵ See *National Parks and Conservation Ass'n v. Morton*, 498 F.2d 765, 770 (D.C. Cir. 1974) (footnote omitted); see also *Critical Mass Energy Project v. NRC*, 975 F.2d 871, 879-80 (D.C. Cir. 1992), *cert. denied*, 507 U.S. 984 (1993).

⁶ 47 C.F.R. § 0.457(d)(2).

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Wilkerson, Legal Advisor to Chairman Powell and Roderick Porter, Deputy Chief, International Bureau. This information includes specific information regarding the life expectancy and technical operation of Iridium's operational satellite system in the 1.6/2.4 GHz ("Big LEO") bands and financial information pertaining to Iridium's de-orbiting obligation, including specific dollar amounts that have been redacted from the public version of the Confidential Attachments submitted under separate cover. As stated above, this information comprises sensitive commercial and technical information that falls within Exemption 4 of the FOIA.

2. Identification of the Commission Proceeding in Which the Information was Submitted or a Description of the Circumstances Giving Rise to the Submission (Section 0.459(b)(2)). As noted above, Iridium is filing the Confidential Attachments in response to a Commission request for information in IB Docket No. 02-54.

3. Explanation of the Degree to Which the Information is Commercial or Financial, or Contains a Trade Secret or Is Privileged (Section 0.459(b)(3)). The Confidential Attachments contain sensitive commercial, financial, and technical information that would customarily be withheld from competitors. For example, the Confidential Attachments provide projections on end-of-life for the Iridium Big LEO system with and without a de-orbit requirement and detailed technical information on satellites experiencing mechanical failures. The Confidential Attachments also contain financial estimates on the costs to Iridium of de-orbiting its Big LEO system, terms, a payment schedule, and a Statement of Work. Iridium, and the satellite manufacturer, Boeing, would be prejudiced in their ability to compete if this information were released to competitors.⁷

4. Explanation of the Degree to Which the Information Concerns a Service that is Subject to Competition (Section 0.459(b)(4)). Substantial competition exists in the satellite industry. Iridium faces competition from companies operating, or planning to operate, various types of satellites and satellite systems. Those competitors stand to benefit competitively from any knowledge of the financial and technical information contained in the Confidential Attachments. For example, disclosure would enable competitors to use such information to gain terms more

⁷ See Letter from Dennis R. Beeson, Boeing to Gino Picasso, Iridium 2GHz LLC (dated Dec. 16, 2003) (*CDR Payment Certification*).

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favorable in their negotiations with contractors, as well as market services to Iridium's customers.

5. Explanation of How Disclosure of the Information Could Result in Substantial Competitive Harm (Section 0.459(b)(5)) Release of the information for which Iridium requests confidentiality could have a significant impact on Iridium's commercial operations. Disclosure of this information would reveal to Iridium's competitors, the satellite construction industry, and the public commercially sensitive and proprietary information that they could not otherwise obtain. Current or future competitors could use this information to learn details about Iridium's cost structure and satellite system that are extremely confidential and are not available in any other public forum.

6. Identification of Any Measures Taken to Prevent Unauthorized Disclosure (Section 0.459(b)(6)). Iridium limits access to the information within the Confidential Attachments to necessary personnel only. Iridium takes every precaution to ensure that this information is not disclosed to the public.

7. Identification of Whether the Information is Available to the Public and the Extent of Any Previous Disclosure of the Information to Third Parties (Section 0.459(b)(7)). Iridium has not made the Confidential Information available to the public and has not disclosed the information to any third parties. Furthermore, information contained in the Confidential Attachments is not typically filed with the Commission and Iridium is providing it in this case in response to the Commission's request for information in IB Docket No. 02-54 for the limited purpose of establishing a policy on orbital debris mitigation.

8. Justification of Period During Which the Submitting Party Asserts that the Material Should Not be Available for Public Disclosure (Section 0.459(b)(8)). Iridium respectfully requests that the specific information for which Iridium seeks confidential treatment be withheld from public inspection indefinitely. It is possible that any disclosure could jeopardize Iridium's competitive position.

Should the Commission refuse to extend confidential treatment to these materials, Iridium respectfully requests that they be returned to Iridium without submission to the public files.

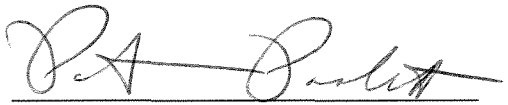
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Please direct any questions regarding this matter to the undersigned.

Respectfully submitted,

IRIDIUM SATELLITE LLC

By: 

Tricia Paoletta
Attorney for Iridium Satellite LLC

Attachments

cc: (via email)
Sheryl Wilkerson
Roderick Porter

Attachment 1

Iridium's real-world experience shows that de-orbiting requires preservation of satellite fuel that would otherwise be available to prolong substantially the life of its satellite system and service to customers.

Attachment 2

Iridium's real-world experience shows that de-orbiting is exceedingly expensive.